

The 27th March, 1967

No. 2316-3-Lab.67/6562-A.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh in respect of the dispute between the workmen and management of M/s Globe Steels, Ballabgarh.

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH.

Complaint No. 108/1 of 1966 under Section 33-A of the Industrial Disputes Act, 1947.

Sarvshri Daulat Ram and Chandan Singh

Versus

M/s Globe Steels, Ballabgarh.

Present.—Dr. Anand Parkash, for the management.

Shri G. C. Joshi and Shri A. R. Handa, for the workmen.

AWARD

During the pendency of a reference No. 108 of 1965 with regard to an industrial dispute between the workmen and the management of M/s Globe Steels, Ballabgarh, the management re-instated two of their employees Daulat Ram and Chandan Singh whom they had previously dismissed and whose dismissal was one of the item of the dispute in the aforesaid reference. The management, however, paid them only half wages for the period of suspension and did not pay them the other half as a punishment for the offence with which they had been charged and for which they had at one time been dismissed. Shri Daulat Ram and Shri Chandan Singh made the present application under Section 33-A of the Industrial Disputes Act complaining that the management had imposed punishment on them during the pendency of the reference. This application was made by them to the Industrial Tribunal, Punjab before whom the reference was pending at the time of the filing of the application. While the reference was still pending, Punjab Re-organisation Act came into force and both these cases, i.e., the reference and the present application were transferred to this Tribunal under Section 93 of the said Act. These matters then came up for hearing before me on 8th March, 1967. On the aforesaid date the parties mutually settled the dispute in both the matters and the management agreed to pay a further sum of Rs 370 to Shri Daulat Ram and similar a further sum of Rs 370 to Shri Chandan Singh. The workmen agreed that they did not insist on any other relief. In my award in the reference I have directed the management to pay the said amount to Shri Daulat Ram and Shri Chandan Singh within one month from 8th March, 1967. No other, relief is now available to the workmen in the present application which is accordingly dismissed. No order as to cost.

Dated 22nd March, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 356, dated Chandigarh, the 22nd March, 1967

The award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 2317-3 Lab-67/6563.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh in respect of the dispute between the workmen and management of M/s Punjab Khadi Gram Udyog Sangh, Panipat, District Karnal.

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH

REFERENCE No. 4 OF 1966

between

The Workmen and the Management of M/s Punjab Khadi Gram Udyog Sangh, Panipat
(District Karnal)

Present.—

Shri Roshan Lal Gupta, authorised representative of the Punjab Khadi Gram Udyog Sangh, Panipat.

Shri Om Parkash General Secretary, Khadi Wool Workers Union, Panipat.

Shri Madusudan Saran, representative of Workmen.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of M/s Punjab Khadi Gram Udyog Sangh, Panipat, over the following matters, the same as referred for adjudication to the Industrial Tribunal, Punjab, —*vide* Punjab Government Notification No. 738-SF-III-I-65/207, dated 14th January, 1966 :—

- (1) Whether the workmen (list attached as annexure A) should be confirmed from the date of their original appointment ? If so, with what details ?
- (2) Whether every women workers is entitled to paid weekly rest ? If so, with what details ?
- (3) Whether women workers should be allowed daily wages at increased rates instead of Rs. 1.10 per day, If so, with what details ?
- (4) Whether all the workmen, should be provided with attendance and leave cards? If so, with what details ?

While the case was still pending there, the Punjab Re-organisation Act came into force and the case was transferred to this Tribunal under Section 93 of the said Act. Notices were then issued to the parties to pursue their case in this Tribunal and the case was ultimately fixed for hearing for the 6th March, 1967. On the aforesaid date, some evidence of the workmen was recorded but during the proceedings of the case the representatives of the parties settled the dispute mutually and agreed to refer the entire dispute to the sole arbitration of Shri Sagar Ram Gupta, M.A., L.L.B., Advocate, Bhiwani. A request by the representatives of both the parties was then made to me that the parties having agreed to ask for a joint reference to an arbitrator, no further proceedings may be taken in the present reference and I recorded their statements. The present proceedings having become infructuous they are dropped. No order as to cost.

22nd March, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 355, dated, Chandigarh, the 22nd March, 1967.

The award be submitted to the Secretary to Government, Haryana Labour and Employment Department Chandigarh as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

The 28th March, 1967

No. 2398-3Lab-67/6563-A.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and management of M/S Vishavkarma Metal Works, Jagadhri.

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, CHANDIGARH

REFERENCE No. 84 OF 1965

between

THE WORKMEN AND THE MANAGEMENT OF M/S VISHAVKARMA METAL
WORKS, JAGADHRI

Present:

Shri Madusudhan Saran, General Secretary, Jagadhri Mazdoor Sabha, Jagadhari.

Shri Roshan Lal Gupta, authorised representative of M/S Vishavkarma Metal Works, Jagadhri.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of M/s Vishavkarma Metal Works, Jagadhri the same was referred for adjudication to the Industrial Tribunal, Punjab under Clause (d) of Sub-Section 1 of Section 10 of

the Industrial Disputes Act, 1947, *vide* Notification No. 455-SFIII-Lab-I-65/23362, dated 31st August, 1965. The two items of dispute which were mentioned in the notification are as under:—

1. Whether the workmen may be granted any dearness allowance? If so, at what rate and with what details?
2. Whether the management be required to abolish contract system in the following departments/sections? If so, with what details?
 1. Melting.
 2. Circle Cutting.
 3. Scratching.
 4. Jodai.
 5. Lathe.
 6. Pressing.

The Tribunal issued usual notices to the parties and in response to the same the workmen filed their statement of claims and the management filed written statement to the same. The management raised certain preliminary objections in respect of which three preliminary issues were framed, namely, issue No. 1, 2 and 3. They were in the following terms:—

1. Whether the demand for the grant of dearness allowance is not capable of adjudication for the reasons given in para (1) of the preliminary objections in the written statement?
2. Whether the demand regarding abolition of contract system is barred by the principles of *res judicata* and estoppel for reasons given in paragraph No. 2 of the preliminary objections in the written statement? If so, what is its effect on the present case?
3. Whether the present representative of the workmen is not legally entitled to represent the workmen in the present case? If so, why and what is its effect on the present case?

After recording the evidence of the parties in respect of the said preliminary objections, the Industrial Tribunal made an order dated 17th May, 1966 by which all the three issues were decided against the management. The parties were then given opportunity to lead their evidence on issue numbers 4 and 5 which are precisely the same as the two items of the dispute mentioned above. Both the parties produced evidence before the Tribunal and the matter was then fixed for arguments. After the arguments concluded the Presiding Officer of the Tribunal felt that proper evidence had not been adduced before him by the parties. In his order dated 12th October, 1966 he said as under:—

“After going through the record I feel that proper evidence has not been led before the Tribunal by the parties. As regards financial liability and stability of the respondent concern there is only oral evidence while documentary evidence is available in the form of balance-sheet. With regard to the question of contract system the evidence is inconclusive. It is, therefore, not possible to do justice to the parties on the basis of evidence put on the record.....”

The Presiding Officer asked the parties to produce better evidence and called upon the management to produce the balance-sheet and profits and loss accounts etc. After the Punjab Reorganisation Act had been passed the case was transferred by the said Tribunal to this Tribunal under Section 93 of the said Act. Notices were then issued by this Tribunal asking the parties to appear before it for further proceedings. On 6th February, 1967 when the case came up for hearing before the Tribunal, Shri Roshan Lal Gupta, representative of the management, made a statement saying “I do not wish to produce the balance-sheet and other records mentioned in the order of the Tribunal dated 12th October, 1966. The case may be decided on the evidence which is already on the record.” The workmen also did not wish to produce any further evidence with the result that the case was fixed for arguments. I have today heard the arguments of both the parties at length and my findings in respect of the two issues are as follows:—

Issue No. 4 (item No. 1 of the dispute).—The case of the workmen is that the management has given no increment to any of their workmen ever since 1963 and that the cost of living and prices of essential commodities have abnormally risen since then. It is not denied by the management that they have given no increment to their workmen ever since they were employed. The workmen have led evidence of two witnesses A.W.1 Shri Gokal Chand and A.W. 2 Shri Bali Ram who have stated that the cost of living has considerably gone up and that the workmen deserve an increase in their dearness allowance. The management have examined only one witness R.W.1 Shri Sardari Lal who is a partner of their concern. He has not uttered a word in denial of the fact that the cost of living has gone up. It is a well-known fact that the prices have risen abnormally during the last three years and the cost of living has gone up considerably. Under the circumstances I have no hesitation in believing the evidence of A.1 and A.2 and in holding that the cost of living has gone up and prices of

essential commodities have abnormally risen. The only point which remains to be seen is whether the concern is financially able to bear the burden of an increase in dearness allowance. As my learned predecessor pointed out in his order dated 12th October, 1966, the management could have led proper evidence on this point by production of their accounts books and profits and loss accounts and the balance-sheet. The management admittedly possesses this material but their representative chose to make a statement that the management were not willing to produce the same in court. An adverse inference in the circumstances must be raised against the management that if the said documents had been produced they would have injured their cause. Apart from this presumption A.W.1 and 2 have categorically stated that the management has got financial stability to bear the burden of extra dearness allowance for their workmen and as I have pointed out above the main witness who appeared for the management has not chosen to contradict this statement. In the statement of claims the workmen have asked for 25 per cent increase in their wages by way of dearness allowance. In their notice of demands, however, they asked for 15 per cent increase only. After giving care ful consideration to the matter I feel that the workmen should be allowed Dearness Allowance at the rate of 12½ per cent of their present wages and I direct the management to allow the same.

Qua No. 2.—The management is engaged in the manufacture of utensils. They are employing certain workmen on contract basis for the purpose of doing the jobs of Melting, Circle Cutting, Scratching and Jodai (Assembling). No contract labour is, however, working on the process of Lathe and Pressing and this fact is not denied by either of the parties. The case of the workmen is that the contract labour working on the jobs mentioned at 1 to 4 in item No. 2 should be abolished as the workmen working on these jobs are being deprived from the amenities provided to the workmen under the Industrial Law. Their case is that these jobs are of permanent nature in the process of manufacture of utensils and there is no reason at all to permit the management to employ contract labour in respect of them. A.W.1, 2 and 3 unanimously say that the jobs are of permanent nature and not of an intermittent nature. Shri Roshan Lal Gupta frankly conceded before me that all the four jobs have to be undertaken in a utensil factory. His case is that the management is unable to provide work to the workmen on these jobs for the whole time. There is no evidence to prove this fact. Even if it were correct the management have the remedy to lay off any workman or workmen, if they are spare. Since the number of workmen in this factory is less than 50, they have not even to pay the lay-off compensation. If the work done on these jobs is of a permanent nature and is an essential part of the process of manufacture of utensils it is difficult to hold that the management should employ contract labour for this purpose. In a number of cases Their Lordships of Supreme Court have held that the employment of contract labour in respect of work of permanent nature in an industry amounts to an unfair labour practice *vide* Shibbu Metal Works and its Workmen, 1966--ILLJ-717. It is significant that the only witness for the management who appeared as R.W.1 has not said a word that the jobs mentioned in 1 to 4 in item No. 2 of the dispute are not of permanent nature and are only of an intermittent nature nor has he said that the aforesaid jobs are not absolutely essential in the manufacture of utensils. For the reasons given above I direct the management to abolish the contract labour in respect of the said four jobs and to treat the workmen on these jobs as regular workmen who may be entitled to all the amenities provided to them by the Industrial Law. As no workman is working on jobs mentioned at 5 and 6 in item No. 2 of the dispute on the contract system the question of abolition of the said system in respect of these jobs does not arise. The dearness allowance will be paid by the management with effect from 31st August, 1965, i.e., the date of reference. The arrears will be paid by them within one month from the date of publication of this award. The contract system will be abolished within a period of one month from the date of publication of this award. No order as to costs.

Dated 17th March, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 343, dated Chandigarh, the 22nd March, 1967

The award is submitted to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.